

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ERIN L. SPENCER)
vs.) NO: SA: 14-CV-00869-DAE
BMW OF NORTH AMERICA, LLC,)
AND CARMAX AUTO)
SUPERSTORES, INC.)

ORAL DEPOSITION
OF
JASON C. SPENCER

June 2, 2015



DEPOSITION upon oral examination of the witness,
JASON C. SPENCER, taken on behalf of the Defendant BMW
of North America, LLC, pending in the United States
District Court for the Western District of Texas, San
Antonio Division, before LISA LUJAN WEAR, a Certified
Shorthand Reporter in and for the State of Texas, on the
2nd day of June, 2015, taken at Spencer, Anderson, PLLC,
4416 Ramsgate, Suite 202 San Antonio, Texas, 78230,
beginning at 10:04 a.m., in accordance with the Federal
Rules of Civil Procedure and any Stipulations
hereinafter set forth.

It is further agreed that Rule 30(b) (5) and
30(b) (5)(c) are waived by agreement of the parties.

1 A P P E A R A N C E S

2 FOR THE PLAINTIFF:

3 Jason C. Spencer
SPENCER, ANDERSON, PLLC
4 4416 Ramsgate, Suite 202
San Antonio, Texas 78230
5 (210) 699-0004
jason@spencerandersonfirm.com

6

7 FOR THE DEFENDANT BMW OF NORTH AMERICA, LLC:

8 J. Michael Myers
NAMAN, HOWELL, SMITH & LEE, PLLC
9 10001 Reunion Place, Suite 600
San Antonio, Texas 78216
10 (210) 731-6309
mmyers@namanhowell.com

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14 ALSO PRESENT:

15 Erin Spencer, Plaintiff
16 Travis R. Anderson

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APPEARANCES

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EXAMINATION BY

8

MR. MYERS

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E X H I B I T S

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NO. DESCRIPTION

PAGE

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Exhibit 1 Notice of Deposition

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Exhibit 2 Application for Texas
Certificate of Title

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Exhibit 3 BMW Manual Excerpt

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Exhibit 4 Invoice 519437

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Exhibit 5 6/21/13 Letter to Mr. Wallen

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Exhibit 6 7/8/13 Letter to Anderson

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Exhibit 7 Invoice 516640

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CHANGES AND SIGNATURE

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REPORTER'S CERTIFICATE

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3 JASON C. SPENCER,
4 having been first duly sworn, testified as follows:

5 EXAMINATION

6 | BY MR. MYERS:

7 Q. Please, state your full name.

8 A. Jason C. Spencer.

Q. And the C stands for what?

10 A. Cord.

11 Q. C-o-r-d?

12 A. Yes, sir.

13 Q. And whe

14 A. 7718 Braun Bend.

O. And that's in San Antonio, Texas?

16 A. Yes, sir.

17 Q. And that's the location where our accident of
18 September 18, 2012, occurred?

19 A. Yes, sir.

20 Q. All right. You and I visited briefly before
21 the commencement of the deposition. You have never sat
22 as a witness in a deposition before today?

23 A. I do not believe that I ever have. I would
24 have to answer that that is correct.

25 Q. Okay. You have, however, taken depositions.

1 A. Yes, sir, I have.

2 Q. Approximately how many?

3 A. I would say 100 maybe.

4 Q. Okay. So you understand the general nature of
5 what we're doing today?

6 A. Yes, sir.

7 Q. You understand the nature of the oath that
8 you're sworn to tell the truth?

9 A. Yes, sir.

10 Q. You understand that the questions that I ask
11 you and the answers you give to those questions can be
12 used in whole or in part of the trial of this lawsuit?

13 A. Yes, sir.

14 Q. And I want to have the -- an agreement with
15 you, which is if there's any question that I ask of you
16 that you don't fully understand, please tell me and I'll
17 be more than glad to restate it or rephrase until you
18 do.

19 A. Yes, sir.

20 Q. If you need a break, obviously tell me and
21 we'll accommodate that.

22 A. Will do.

23 Q. Okay. You are a licensed lawyer in the State
24 of Texas?

25 A. Yes, sir.

1 Q. Okay. You are not licensed to practice before
2 the United States Court for the Western District of
3 Texas?

4 A. That is correct.

5 Q. You are not licensed to practice before any of
6 the other federal district courts in the State of Texas?

7 A. That is also correct.

8 Q. You are not licensed to practice before the
9 United States Court of the Fifth Circuit?

10 A. That is correct.

11 Q. How many years have you been licensed to
12 practice in Texas?

13 A. I believe it has been since May the 4th, 2006.

14 Q. Okay. And when were you licensed to practice
15 originally?

16 A. That was the first time.

17 Q. Okay. You are married to Erin Spencer?

18 A. Yes, sir.

19 Q. So your roles in this lawsuit are various.
20 Would you agree with that?

21 A. I would.

22 Q. Okay. You are the spouse of the plaintiff.

23 A. Yes, sir.

24 Q. You are lead counsel for the plaintiff, Erin
25 Spencer.

1 A. Yes, sir.

2 Q. You've been designated by the United States
3 Court as a responsible third party arising out of this
4 accident.

5 A. Yes, sir.

6 Q. Okay. You are the title owner of the 2008 BMW
7 X5 vehicle in question.

8 A. Yes, sir.

9 Q. Erin Spencer is not identified as a title
10 holder or owner of that vehicle.

11 A. I would agree.

12 Q. Okay. When the vehicle was -- and it -- Erin
13 Spencer was never a title holder of the 2008 BMW X5
14 vehicle.

15 A. I would agree with that.

16 Q. Okay. You are also the person who sold the
17 2008 BMW X5 vehicle after the accident.

18 A. Yes, sir.

19 Q. Okay. At no time before you sold that vehicle
20 did you notify BMW of North America that you intended to
21 make a claim against it and that you were selling the
22 vehicle.

23 A. That is correct.

24 Q. You never provided BMW of North America an
25 opportunity to conduct an examination of that 2008 X5

1 vehicle in order to determine whether or not there had
2 been any changes, alterations, replacements of parts
3 before you sold that vehicle.

4 A. That is correct as to BMW of North America.

5 Q. Do you have any family that lives in the San
6 Antonio Division of the Western District of Texas aside
7 from Erin and your children?

8 A. Yes, sir.

9 Q. Who?

10 A. That live within the court's jurisdictional
11 district?

12 Q. Yes, sir. And I'm just limiting it, not to the
13 entire Western District, obviously, but just the San
14 Antonio Division, which I think includes Kerr, Kendall,
15 Atascosa and some of those counties.

16 A. Yes, sir, I have more family, both by affinity
17 as well as by blood.

18 Q. Okay. Well, let's talk about by blood first.
19 Who do you have that lives within the district, just
20 generally?

21 A. I have a younger brother who lives here with
22 his spouse. His name is Justin Gonzalez.

23 Q. Dustin?

24 A. Justin.

25 Q. Justin. And what's his last name?

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7 BMW OF NORTH AMERICA, LLC,) NO: SA: 14-CV-00869-DAE
8 AND CARMAX AUTO)
9 SUPERSTORES, INC.)
10 *****
11 REPORTER'S CERTIFICATION
12 ORAL DEPOSITION
13 OF
14 JASON C. SPENCER
15 June 2, 2015
16 *****
17 I, LISA LUJAN WEAR, Certified Shorthand Reporter in
18 and for the State of Texas, hereby certify to the
19 following:
20 That the witness, JASON C. SPENCER, was duly sworn
21 by the officer and that the transcript of the Oral
22 Deposition is a true record of the testimony given by
23 the Witness;
24 That the deposition transcript was submitted on
25 to the witness or to the attorney for
 the witness for examination, signature, and return to me
 by _____;
 That a copy of this certificate was served on all
 parties shown herein on _____;
 That pursuant to information given to the
 deposition officer at the time said testimony was taken,
 the following includes all parties of record and the
 amount of time used by each party at the time of the
 deposition:
 U.S. LEGAL SUPPORT, INC. SAN ANTONIO, TEXAS
 (210) 734-7127

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1 Jason C. Spencer, Counsel for Plaintiff
2 (00:00)

3 J. Michael Myers, Counsel for Defendant
4 (02:45)

5 I further certify that I am neither counsel for,
6 related to, nor employed by any of the parties or
7 attorneys in the action in which this proceeding was
8 taken, and further that I am not financially or
9 otherwise interested in the outcome of the action.

10 Certified to by me this the _____ day of
11 2015.



12 LISA LUJAN WEAR, CSR, RPR
13 CSR No. 4543 - Expires 12/31/15
14 RPR No. 806106 - Expires 9/30/17

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